

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 655

Introduced by Senator Mitchell

February 27, 2015

An act to add Section 1941.7 to the Civil Code, and to amend Sections 17920 and 17920.3 of the Health and Safety Code, relating to housing standards.

LEGISLATIVE COUNSEL'S DIGEST

SB 655, as amended, Mitchell. Housing standards: mold.

(1) Existing law requires the lessor of a building intended for human occupation to repair dilapidations, as specified, rendering it untenable. Existing law permits tenants to repair dilapidations, under specified circumstances.

This bill would provide that a lessor is not obligated to repair a dilapidation relating to mold, as specified, until he or she has notice of ~~it~~ *it or if the tenant is in violation of specified affirmative obligations*. The bill would authorize a landlord to enter a dwelling to repair a dilapidation relating to mold, under specified conditions.

(2) The State Housing Law, which is administered by the Department of Housing and Community Development, prescribes standards for buildings used for human habitation and establishes definitions for this purpose. The law provides that a building, or a portion of it, in which certain conditions are found to exist, such as a lack of sanitation, as specified, is substandard. The law provides that a violation of these provisions is a misdemeanor.

This bill would specify that visible ~~or otherwise demonstrable~~ mold growth, excepting mold that is minor and found on surfaces that can accumulate moisture as part of their proper and intended use, is a type of inadequate sanitation and therefore a substandard condition. The bill would define mold as microscopic organisms or fungi that can grow in damp conditions in the interior of a building. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1941.7 is added to the Civil Code, to
2 read:

3 1941.7. (a) An obligation shall not arise under Section 1941
4 or 1942 to repair a dilapidation relating to the presence of mold
5 pursuant to paragraph (13) of subdivision (a) of Section 17920.3
6 of the Health and Safety Code until the lessor has notice of the
7 ~~dilapidation.~~ *dilapidation or if the tenant is in violation of Section*
8 *1941.2.*

9 (b) A landlord may enter a dwelling unit to repair a dilapidation
10 relating to the presence of mold pursuant to paragraph (13) of
11 subdivision (a) of Section 17920.3 of the Health and Safety Code
12 provided the landlord complies with the provisions of Section
13 1954.

14 SEC. 2. Section 17920 of the Health and Safety Code is
15 amended to read:

16 17920. As used in this part:

17 (a) “Approved” means acceptable to the department.

18 (b) “Building” means a structure subject to this part.

19 (c) “Building standard” means building standard as defined in
20 Section 18909.

21 (d) “Department” means the Department of Housing and
22 Community Development.

1 (e) “Enforcement” means diligent effort to secure compliance,
2 including review of plans and permit applications, response to
3 complaints, citation of violations, and other legal process. Except
4 as otherwise provided in this part, “enforcement” may, but need
5 not, include inspections of existing buildings on which no
6 complaint or permit application has been filed, and effort to secure
7 compliance as to these existing buildings.

8 (f) “Fire protection district” means any special district, or any
9 other municipal or public corporation or district, which is
10 authorized by law to provide fire protection and prevention
11 services.

12 (g) “Labeled” means equipment or materials to which has been
13 attached a label, symbol, or other identifying mark of an
14 organization, approved by the department, that maintains a periodic
15 inspection program of production of labeled products, installations,
16 equipment, or materials and by whose labeling the manufacturer
17 indicates compliance with appropriate standards or performance
18 in a specified manner.

19 (h) “Listed” means all products that appear in a list published
20 by an approved testing or listing agency.

21 (i) “Listing agency” means an agency approved by the
22 department that is in the business of listing and labeling products,
23 materials, equipment, and installations tested by an approved
24 testing agency, and that maintains a periodic inspection program
25 on current production of listed products, equipment, and
26 installations, and that, at least annually, makes available a published
27 report of these listings.

28 (j) “Mold” means microscopic organisms or fungi that can grow
29 in damp conditions in the interior of a building.

30 (k) “Noise insulation” means the protection of persons within
31 buildings from excessive noise, however generated, originating
32 within or without such buildings.

33 (l) “Nuisance” means any nuisance defined pursuant to Part 3
34 (commencing with Section 3479) of Division 4 of the Civil Code,
35 or any other form of nuisance recognized at common law or in
36 equity.

37 (m) “Public entity” has the same meaning as defined in Section
38 811.2 of the Government Code.

39 (n) “Testing agency” means an agency approved by the
40 department as qualified and equipped for testing of products,

1 materials, equipment, and installations in accordance with
2 nationally recognized standards.

3 SEC. 3. Section 17920.3 of the Health and Safety Code is
4 amended to read:

5 17920.3. Any building or portion thereof including any
6 dwelling unit, guestroom or suite of rooms, or the premises on
7 which the same is located, in which there exists any of the
8 following listed conditions to an extent that endangers the life,
9 limb, health, property, safety, or welfare of the public or the
10 occupants thereof shall be deemed and hereby is declared to be a
11 substandard building:

12 (a) Inadequate sanitation shall include, but not be limited to,
13 the following:

14 (1) Lack of, or improper water closet, lavatory, or bathtub or
15 shower in a dwelling unit.

16 (2) Lack of, or improper water closets, lavatories, and bathtubs
17 or showers per number of guests in a hotel.

18 (3) Lack of, or improper kitchen sink.

19 (4) Lack of hot and cold running water to plumbing fixtures in
20 a hotel.

21 (5) Lack of hot and cold running water to plumbing fixtures in
22 a dwelling unit.

23 (6) Lack of adequate heating.

24 (7) Lack of, or improper operation of required ventilating
25 equipment.

26 (8) Lack of minimum amounts of natural light and ventilation
27 required by this code.

28 (9) Room and space dimensions less than required by this code.

29 (10) Lack of required electrical lighting.

30 (11) Dampness of habitable rooms.

31 (12) Infestation of insects, vermin, or rodents as determined by
32 a health officer or, if an agreement does not exist with an agency
33 that has a health officer, the infestation can be determined by a
34 code enforcement officer, as defined in Section 829.5 of the Penal
35 Code, upon successful completion of a course of study in the
36 appropriate subject matter as determined by the local jurisdiction.

37 ~~(13) Visible or otherwise demonstrable mold growth, as~~
38 ~~determined by a health officer or a code enforcement officer, as~~
39 ~~defined in Section 829.5 of the Penal Code, excluding the presence~~

1 of mold that is minor and found on surfaces that can accumulate
2 moisture as part of their properly functioning and intended use.

3 (14) General dilapidation or improper maintenance.

4 (15) Lack of connection to required sewage disposal system.

5 (16) Lack of adequate garbage and rubbish storage and removal
6 facilities, as determined by a health officer or, if an agreement
7 does not exist with an agency that has a health officer, the lack of
8 adequate garbage and rubbish removal facilities can be determined
9 by a code enforcement officer as defined in Section 829.5 of the
10 Penal Code.

11 (b) Structural hazards shall include, but not be limited to, the
12 following:

13 (1) Deteriorated or inadequate foundations.

14 (2) Defective or deteriorated flooring or floor supports.

15 (3) Flooring or floor supports of insufficient size to carry
16 imposed loads with safety.

17 (4) Members of walls, partitions, or other vertical supports that
18 split, lean, list, or buckle due to defective material or deterioration.

19 (5) Members of walls, partitions, or other vertical supports that
20 are of insufficient size to carry imposed loads with safety.

21 (6) Members of ceilings, roofs, ceiling and roof supports, or
22 other horizontal members which sag, split, or buckle due to
23 defective material or deterioration.

24 (7) Members of ceilings, roofs, ceiling and roof supports, or
25 other horizontal members that are of insufficient size to carry
26 imposed loads with safety.

27 (8) Fireplaces or chimneys which list, bulge, or settle due to
28 defective material or deterioration.

29 (9) Fireplaces or chimneys which are of insufficient size or
30 strength to carry imposed loads with safety.

31 (c) Any nuisance.

32 (d) All wiring, except that which conformed with all applicable
33 laws in effect at the time of installation if it is currently in good
34 and safe condition and working properly.

35 (e) All plumbing, except plumbing that conformed with all
36 applicable laws in effect at the time of installation and has been
37 maintained in good condition, or that may not have conformed
38 with all applicable laws in effect at the time of installation but is
39 currently in good and safe condition and working properly, and
40 that is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those that are specifically allowed or approved by this code, and that have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

1 (m) All buildings or portions thereof that are not provided with
2 the fire-resistive construction or fire-extinguishing systems or
3 equipment required by this code, except those buildings or portions
4 thereof that conformed with all applicable laws at the time of their
5 construction and whose fire-resistive integrity and
6 fire-extinguishing systems or equipment have been adequately
7 maintained and improved in relation to any increase in occupant
8 load, alteration or addition, or any change in occupancy.

9 (n) All buildings or portions thereof occupied for living,
10 sleeping, cooking, or dining purposes that were not designed or
11 intended to be used for those occupancies.

12 (o) Inadequate structural resistance to horizontal forces.

13 “Substandard building” includes a building not in compliance
14 with Section 13143.2.

15 However, a condition that would require displacement of sound
16 walls or ceilings to meet height, length, or width requirements for
17 ceilings, rooms, and dwelling units shall not by itself be considered
18 sufficient existence of dangerous conditions making a building a
19 substandard building, unless the building was constructed, altered,
20 or converted in violation of those requirements in effect at the time
21 of construction, alteration, or conversion.

22 SEC. 4. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.